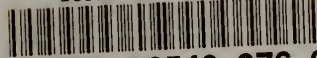


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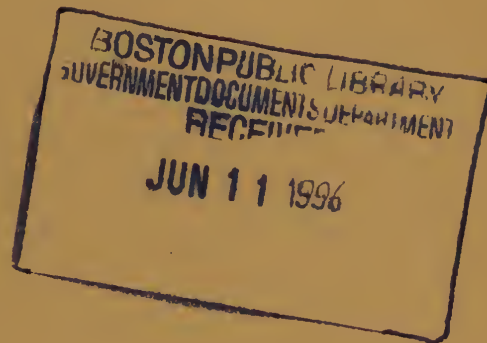
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BOSTON REDEVELOPMENT AUTHORITY  
**planning department**

~~TITLE~~  
~~BOSTON REDEVELOPMENT AUTHORITY~~  
~~CITY HALL - ROOM 612~~  
~~Boston, Mass. 02201~~



ZONING PROCEDURES - CITY OF BOSTON

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## ZONING PROCEDURES -- CITY OF BOSTON

This report has been prepared by the zoning staff of the BRA Planning Department in order to help property owners and others affected by the Zoning Code understand how it works -- and to a certain extent, why it works that way. The report is in no way a substitute for the Zoning Code but can best be considered an introduction to it.

Additional copies are available at the Planning Department Offices,  
New City Hall, Room 900, Boston 02201 (722-4300).

June, 1971



# ZONING PROCEDURES -- CITY OF BOSTON

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## ZONING COMMISSION

Ninth Floor, City Hall, Boston 02201  
722-4300

The Commission has the power to adopt and amend the Zoning Code, the purposes of which are specified to be the following:

- to lessen congestion in the streets;
- to conserve health;
- to secure safety from fire, panic and other dangers;
- to provide adequate light and air;
- to prevent overcrowding of land;
- to avoid undue concentration of population, to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements;
- to conserve the value of land and buildings;
- to encourage the most appropriate use of land throughout the city;
- to preserve and increase its amenities;

The Commission consists of eleven commissioners appointed by the Mayor subject to confirmation by the City Council. Three commissioners are selected at large (one of whom must own alone or with one or more persons, and must occupy in whole or in part as his place of residence, a dwelling house having not more than three dwelling units) and eight are selected from candidates nominated by the following groups:

- Associated Industries of Massachusetts
- Boston Central Labor Union
- Greater Boston Real Estate Board
- Boston Society of Architects and Boston Society of Landscape Architects
- Boston Society of Civil Engineers
- Greater Boston Chamber of Commerce
- Massachusetts Motor Truck Association, Inc.
- Master Builders' Association of Boston





The statutes and ordinances under which the Zoning Commission is organized are the following:

Stat. 1956, Chap. 665, as amended; Revised  
Ordinances 1961, Chapters 9 and 10.



## BOARD OF APPEAL

803 City Hall, Boston 02201  
722-4100 ext. 198

The Board of Appeal hears appeals related to the Zoning Code and the Building Code. This pamphlet describes the procedures for appeals under the Zoning Code. Any applicant who has been refused a building or use permit under the Zoning Code may file an appeal within forty-five days of the date of refusal.

The Board consists of five members appointed by the Mayor. One member is selected at large, and the others are selected from candidates nominated by the following groups:

Greater Boston Real Estate Board and Massachusetts Association of Real Estate Boards

Boston Society of Architects and Boston Society of Civil Engineers

Master Builders' Association, Building Trades Employers' Association, and Associated General Contractors of Massachusetts, Inc.

Building and Construction Trades Council of the Metropolitan District

The statutes and ordinances under which the Board of Appeal is organized are the following:

Stat. 1938, Chap. 479, S. 117, as amended;  
Stat. 1956, Chap. 665, S. 8, as amended.



## APPEAL FOR ZONING VARIANCE OR CONDITIONAL USE PERMIT

1. The Zoning Code regulates uses and dimensions of land and buildings. In certain circumstances the regulations may be waived by one of three appeal procedures. (1) In each zoning district uses are designated Allowed, Conditional, or Forbidden. In order to use his property for a Conditional Use, the owner must apply to the Board of Appeal for a Conditional Use Permit. (2) Waiver of the dimensional requirements or permission for a Forbidden use requires application to the Board of Appeal for a variance. (3) Exceptions for Planned Development Areas and Urban Renewal Areas are discussed in the last section.
2. The owner -- or a builder, lawyer, etc., acting as the owner's agent -- applies in person at the Building Department offices on the eight floor of City Hall for a building permit.

In addition to the completed application form, he submits (1) a plot plan that shows the outline of the structure in relation to the lot and surrounding properties, (2) building plans and specifications, and (3) a zoning computation sheet which compares proposed use, dimensions, and off street parking and loading of the building with the requirements of the Zoning Code. Duplicates of the application form and the computation sheet are contained in Appendix A. Blank forms may be obtained from the Building Department.



When the owner recognizes that his proposed building or use may not meet Zoning Code requirements, he may wish to apply for a Conditional Use Permit or variance before final plans and specifications for the building are completed. By doing this, he can (1) postpone incurring architectural costs until he is certain he can build or use the building as he proposes, or (2) carry out the zoning appeal procedure at the same time the architect is completing working drawings. If the owner chooses to do this, he submits only the plot plan and the computation sheet with his application for building permit.

3. Inspectors in the Building Department examine the submitted documents for conformance with Zoning Code and Building Code requirements. Most buildings meet the requirements of both codes, and a permit is issued. If a building does not meet Building Code requirements and the permit is denied, the owner may redesign his building to meet the code requirements or may appeal to the Board of Appeal. Procedure for appeal from the Building Code is not considered in this pamphlet.
4. If the permit is denied because of violation of the Zoning Code, the owner may apply for relief to the Board of Appeal. Application forms are available at the Building Department (722-4100). Four copies of the forms together with the required fee, must be returned to the department within 45 days of the date of denial of the building permit. One copy is retained by the Building Department, and the other three are distributed to the Board of Appeal, the Redevelopment Authority, and the Zoning Commission.





The schedule of fees is as follows:

One-, two-, three-family dwelling	\$50
All other cases - Primary fee	\$75
For each section violated	\$50

5. The Board of Appeal schedules a public hearing on the matter, usually six to eight weeks later. It sends notices of the hearing (1) to the appellant, (2) to the BRA, (3) to the owners of property affected by the appeal (usually the owners of abutting property), and (4) to anyone who has requested to be notified of hearings in the area. Anyone may request notification of hearings of the Board of Appeal by filing a written request annually in December, specifying the ward or wards he wished to be notified about. Hearing notices are usually mailed 7 days before the hearing is to take place.

The Board of Appeal also advertises the hearing with the legal notices in the classified advertising section of the Boston Globe, approximately 7 days before the hearing.

6. The BRA, as the planning agency for the City of Boston, studies the appeal and prepares a recommendation for the Board of Appeal. These studies are conducted by the BRA advisor to the Zoning Commission. He requests opinions from other staff members: the appropriate district planner or project director, a transportation planner, an urban designer, or other staff members.

The BRA's responsibility is (1) to judge the appeal from the standpoint of needs and planning goals of the whole city and of the local area and (2) to ascertain that granting the appeal would not adversely affect the public good nor substantially depart from the intent of the Zoning Code.



The BRA's report may also serve to inform the owner of the property in question that it is under consideration for acquisition by some public agency, perhaps by the BRA itself for urban renewal purposes or by the Massachusetts Department of Public Works for highway purposes. Although the Board of Appeal cannot deny a variance because a taking is pending, knowledge of such a possible taking may sometimes affect the owner's plans for the property.

7. After the staff report is completed, the Director submits it to the Board of the BRA for approval. A certified copy of the BRA vote is sent to the Board of Appeal.
8. Board of Appeal hearings are usually held on Tuesday mornings. The five Board members inspect each of the sites in advance of the hearing.
9. The hearing is held in Room 801 of City Hall. The Chairman reads the application for zoning relief, including the reasons why the building permit was denied, and usually reads the BRA report. The owner or his representative then testifies in behalf of his petition, and any other interested person may speak either for or against. After evidence is heard, the Board takes the matter under advisement. There is no stated time limit within which a decision must be reached.
10. The Board of Appeal may grant a variance if all the following conditions are met: (from Section 7-3 of the Zoning Code)



(a) That there are special circumstances or conditions, fully described in the findings, applying to the land or structure for which the variance is sought (such as, but not limited to, the exceptional narrowness, shallowness, or shape of the lot, or exceptional topographical conditions thereof) which circumstances or conditions are peculiar to such land or structure but not the neighborhood, and that said circumstances or conditions are such that the application of the provisions of this code would deprive the appellant of the reasonable use of such land or structure; and

(b) That, for reasons of practical difficulty and demonstrable and substantial hardship fully described in the findings, the granting of the variance is necessary for the reasonable use of the land or structure and that the variance as granted by the Board is the minimum variance that will accomplish this purpose; and

(c) That the granting of the variance will be in harmony with the general purpose and intent of this code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

11. The Board of Appeal may grant a conditional use permit only if it finds that all the following conditions are met:

(a) The specific site is an appropriate location for such use or, in the case of a substitute nonconforming use under Section 9-2, such substitute nonconforming use will not be more objectionable nor more detrimental to the neighborhood than the nonconforming use for which it is being substituted;

(b) The use will not adversely affect the neighborhood;

(c) There will be no serious hazard to vehicles or pedestrians from the use;

(d) No nuisance will be created by the use; and

(e) Adequate and appropriate facilities will be provided for the proper operation of the use.

12. In some cases the Board of Appeal approves a variance or conditional use, but attaches conditions, in effect achieving a compromise between the requirements of the Zoning Code and the proposals of the owner.

13. The decision of the Board of Appeal, giving the reasons for its decisions and other information required by law, is placed on file at the Building Department, where it is available for





public inspection at any time. Copies of the decision are sent to the appellant, to the BRA, to the people who were notified of the public hearing, and to anyone present at the hearing who has requested that a copy be sent to him.

14. When the Board of Appeal has granted the variance, or conditional use permit, the Building Commissioner issues a building permit, and construction work may begin, unless, as rarely happens, an injunction is issued by the Superior Court (see No. 16 below).
15. If the Board of Appeal denies an appeal, the owner may not submit a new petition for relief in the same matter for a year, unless four of the five members of the Board vote to accept the petition. He may petition for a different conditional use or variance for the same land, but there must be a substantial change in the new petition.

The owner has the right to appeal a decision to the Superior Court, as described below.

16. Anyone who considers himself aggrieved by the decision of the Board of Appeal may appeal to Suffolk Superior Court within fifteen days after the decision is recorded. He need not previously have been involved in any way in the proceedings. The court may annul the decision of the Board, may make another decision, and may restrain by injunction any action that it finds to violate the Zoning Code.





## AMENDMENTS OF THE ZONING CODE

1. A property owner may petition the Zoning Commission to amend the Zoning Code -- either the maps of zoning districts or the text containing regulations respecting each zone. He applies to the Secretary of the Zoning Commission, at the office of the BRA Planning Department, Room 913, Boston City Hall (722-4300). When he applies, he must pay \$100 to cover the cost of the public hearing that is required.

The Zoning Commission may initiate the amendment process itself, or another governmental agency, such as the BRA, may request changes in the Zoning Code.

2. Responsibility for changes in text or maps rests with the Commission, so the Commission must take action to initiate consideration of an amendment, rather than simply dealing with the petition of the owner as is the case in a variance proceeding.
3. The power of the Zoning Commission to adopt and amend the Zoning Code is a legislative power conferred by the General Court. Study of any amendment, therefore, is similar to the study that would be undertaken by a legislative body before it amended a statute. No limit is set on the time expended for this study.



4. The Zoning Commission staff is part of the Planning Department of the BRA. While the zoning staff is conducting its review for the Commission, the BRA is also permitted by the law to study the matter for a period of 20 days. As part of this process, Little City Hall Managers are contacted for their comment and community reaction to the proposed amendments. In practice, this review by Little City Hall Managers, the professional planning, design, and transportation staff of the BRA is extremely important, for the Commission relies heavily on the such recommendations.
5. The BRA Board reviews and votes on staff recommendations; the vote of the Authority is transmitted to the Zoning Commission.
6. The Zoning Commission schedules a public hearing, and advertises the hearing, usually in the Herald Traveler, at least ten days prior to the hearing date. Notices are mailed to anyone who, during the previous December, has requested that he be informed of hearings of the Zoning Commission. In the case of map amendments, owners of abutting property are usually notified by mail.
7. A public hearing is held in Room 801 or 805 of City Hall by at least six of the eleven members. Testimony is received from anyone who wishes to speak for or against the change.
8. The concurrant votes of seven members of the Zoning Commission are required to amend the Zoning Code.
9. After an amendment is adopted by the Zoning Commission, it is sent to the Mayor for his approval. If he signs it, the amendment becomes effective immediately. If he fails to sign it within fifteen days, the amendment becomes effective without his signature. If he disapproves it within the fifteen day period, the votes of at least nine members of the Zoning Commission are needed to pass the amendment over the Mayor's veto.



## EXCEPTIONS FROM ZONING REGULATIONS

### PLANNED DEVELOPMENT AREAS AND URBAN RENEWAL AREAS

Two relatively new procedures in the Boston Zoning Code provide for exceptions from the zoning requirements in certain cases where other controls are present: the Urban Renewal Area procedures and the Planned Development Area procedures.

#### A. Planned Development Areas

1. When an owner contemplates the development of a parcel of one acre or more in size, and finds that the zoning regulations inhibit a development which he considers suited to the land, he may elect to apply to the BRA for a Planned Development Area zoning designation. In essence this procedure allows the developer certain exemptions from the Zoning Code if the BRA staff, after intensive design and planning review, find the project worthy and within the intent of the Zoning Code, and if the BRA Board, the Zoning Commission and the Board of Appeal all approve.
2. The developer applies to Mace Wenniger, Director of Development Planning and Zoning of the BRA on the ninth floor of City Hall. The following information must be provided:
  - proposed location and appearance of structures
  - open spaces and landscaping
  - proposed uses of area
  - densities
  - proposed traffic circulation
  - parking and loading facilities
  - access to public transportation
  - proposed dimensions of structures
  - economic feasibility study
  - other information as may be required





3. If staff approval is not given, this request goes no further.
4. If the development plan is approved by the staff, it is scheduled for a public hearing before the BRA Board. In order to approve the development plan, the Board must find the plan conforms to the general plan for the city as a whole and that nothing in such plan will be injurious to the neighborhood or otherwise detrimental to the public welfare.
5. Upon BRA Board approval, the BRA petitions the Zoning Commission for a PDA designation for the parcel. This takes the form of a map amendment, whereby the letter "D" is added as a suffix to the already existing zoning designation. The hearing procedure is the same as described under "Amendments of the Zoning Code" above.
6. When the developer applies for a building permit he will be denied because the plans do not conform to the Zoning Code. He then applies to the Board of Appeal for exceptions to the Zoning Code, under the provisions of Section 6-A. The hearing procedure is as described above under "Appeal for Zoning Variance or Conditional Use Permit," except that, in order to approve an appeal for an exception, the Board of Appeal must find:
  - (a) That such exception is in harmony with the general purpose and intent of the code; and
  - (b) The exception requested is conformity with the development plan for the planned development area, and such conformity has been certified by the B.R.A.
7. Before the building permit is issued, the plans submitted to the Building Department must be stamped by the BRA, to indicate conformity with the development plans.





B. Urban Renewal Areas

1. To be eligible for an Urban Renewal Area subdesignation, the parcel or parcels must be either (1) the site of or for a low rent housing project, or a housing project for elderly persons of low income, or (2) owned by the Boston Redevelopment Authority as a disposition parcel in connection with an Urban Renewal Project, and thereby subject to the restrictions of an urban renewal plan, or (3) not owned by the BRA, but subject to an agreement with the BRA establishing land use and dimensional controls as specified in a land assembly and redevelopment plan, or urban renewal plan.
2. The BRA Board must authorize the initiation of a petition to the Zoning Commission for an Urban Renewal Area designation. No public hearing is required for the Board to give such authorization.
3. The petition is similar to a map amendment, in which the letter "U" is added as a suffix to the already existing zoning. The hearing procedure before the Zoning Commission is as previously described.
4. Upon being given a "U" designation, land is no longer subject to the dimensional requirements of Table B of Section 13-1, except for the floor area ratio requirements. It is not necessary to seek Board of Appeal exceptions for minimum lot size, front, side and rear yard, height, or setback of parapet requirements. The justification for waiving these requirements is that the properties are already under the controls, related to height, density, etc. of the urban renewal plan. Any exception from the zoning regulations regarding use, floor area ratio, or off-street parking and loading



must go to the Board of Appeal for exceptions. The Board of Appeal must find that such exceptions are in harmony with the general purpose and intent of the code and that they are in conformity with the land assembly and redevelopment or urban renewal plan, or the low rent housing project or housing project for elderly persons of low income for the urban renewal area, and such conformity has been certified by the BRA.



(1) Use Item: ARTICLE 8

(2) DIMENSIONAL REQUIREMENTS: ARTICLE 13-1

	ARTICLE AND SECTION	14-1	14-2	14-1 PLUS 14-2	14-3 14-4	ART 15	ART 16	ART 17	ART 18	ART 19	ART 20	ART 21	ART 22
		MIN. LOT SIZE	MIN. LOT AREA FOR ADDITIONAL DWELLING UNIT	TOTAL LOT SIZE	MIN. LOT WIDTH	MAX. FLOOR AREA RATIO	MAX. HEIGHT OF BUILD.	USABLE OPEN SPACE PER DWELL. UNIT	MIN. FRONT YARD	MIN. SIDE YARD	MIN. REAR YARD	MIN. SETBACK OF PARAPET	MAX. USE OF REAR YARD
ZONE	REQU'D BY CODE												
	EXISTING CONDITION												
	PROPOSED CONDITION												

GROSS FLOOR AREA: SECTION 2-1(21) F.A.R. =  $\frac{\text{Gross Floor Area}}{\text{Lot Area}}$

- Basement —
- First Floor —
- Second Floor —
- Third Floor —

Total —

(3) OFF-STREET PARKING: ARTICLE 23

Dwelling Units X factor = spaces (for houses, apartments, hotels, etc.)  
or  
Floor Area/factor = spaces (for offices, stores, factories, etc.)

(4) OFF-STREET LOADING: ARTICLE 24

(only required for uses other than 1 through 10, 26, 27, 28, 31, 32, 33, 39, 40, 50, 52, 53, 58, 59)

NOTE: All of above data is to be attached to, or incorporated into, the Plot Plan Signed by Certified Land Surveyor or Certified Engineer



(An appeal under the Boston Zoning Code to the Board of Appeal must be in writing on this form and filed in quadruplicate with the Building Commissioner of the City of Boston, who shall retain one for his files and transmit one to the Board of Appeal, one to the Boston Redevelopment Authority, and the other to the Zoning Commission.)

# APPEAL

under Boston Zoning Code

Boston, Massachusetts,....., 19.....

To the Board of Appeal in the Building Department of the City of Boston:

The undersigned, being.....  
*Here insert words descriptive of interest in lot, such as the owner(s)*

*Here insert words descriptive of interest in lot, such as the owner(s)*

of the lot at.....  
*number*                      *street*                      *district*

number

*street*

*district*

hereby appeal(s) under St. 1956, c. 665, s. 8, to the Board of Appeal in the Building Department

of the City of Boston from the following action taken by the Building Commissioner on.....  
date

*date*

*(Here copy letter of refusal in full):*





This appeal seeks a..... The specific

*Here insert:* interpretation of Boston Zoning Code  
or conditional use permit  
or nonconforming use permit  
or sub-standard lot permit  
or transition zone permit  
or variance

provision of the Boston Zoning Code involved in this appeal is Section.....  
More precisely, what is sought by this appeal, and the grounds on which it is claimed that  
what is sought should be granted, are as follows (*here set forth in detail and with particularity  
exactly what is sought by this appeal, and the reasons therefor*):

*Appellant*.....

*By*.....

*Address*.....

*Telephone number*.....



D73

D7 BRA

BR Boston Redevelopment Auth.  
Bos Planning Dept.

Pla ZONING PROCEDURES - City of  
ZON Boston.  
Boston.

